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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

CARLOS CERVANTES,

Defendant and Appellant.

H035377

(Monterey County

Super. Ct. No. SS090619)

Defendant Carlos Cervantes has an extensive history of criminal conduct, and he has been “in and out of custody” since he was 12 years old. He has long associated with a Norteno gang. In October 2008, when he was 20 years old and on probation in four separate cases, defendant and two other men attacked a man in a bar for no apparent reason. They hit him in the head and face. He fell to the ground, but he was able to rise and fight them off. They fled. The man suffered a large bump on the back of his head. Defendant denied being present at the bar or participating in the altercation.

Defendant was charged by complaint with aggravated assault (Pen. Code, § 245, subd. (a)(1)), and battery (Pen. Code, § 242), and it was alleged that these offenses had been committed for the benefit of a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)). The complaint was subsequently amended to add an additional count alleging that defendant had committed a gang crime in violation of Penal Code section 186.22, subdivision (a). Defendant pleaded no contest to the gang crime count, and the

other counts and enhancement allegations were dismissed. The court suspended imposition of sentence and placed him on probation.

Defendant thereafter violated his probation by resisting an officer (Pen. Code, § 148, subd. (a)(1)). He admitted the probation violation, and his probation was revoked. The court imposed the aggravated term of three years in state prison. Defendant timely filed a notice of appeal.

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant was notified of his right to submit written argument on his own behalf but has failed to avail himself of the opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

The judgment is affirmed.

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Mihara, J.

WE CONCUR:

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Bamattre-Manoukian, Acting P.J.

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McAdams, J.